

that the bipartisan Senate should not go home for the August recess without taking up this issue? We have spent weeks, the Republican leadership has spent weeks in the Senate on meaningless constitutional amendments and issues that bear little relevance to the daily lives of Americans, but the Senator from Nevada has to feel, as do I, we have an obligation to these soldiers and their families before we leave in August to have a meaningful debate on this floor about how to make certain that we end up in Iraq with our mission truly accomplished. I ask the Senator from Nevada, is that the purpose of his coming to the floor?

Mr. REID. First, my coming here is just as the Senator indicated. How can we, the Senate of our country, leave here with the raging civil war going on and our troops are right in the middle of it? How can we leave here without changing the course in Iraq? That is why I am here. It is a cry for help. We need our Republican colleagues to speak out. This blind allegiance to the President is not good for our country.

Mr. DURBIN. I thank the Senator from Nevada for yielding for the questions.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. BINGAMAN. Madam President, I ask permission to speak as if in morning business.

The ACTING PRESIDENT pro tempore. The Senate is in morning business.

Mr. BINGAMAN. I thank the Chair.

ENDING THE CRISIS IN ISRAEL AND LEBANON

Mr. BINGAMAN. I have come to the Senate floor today to discuss what I believe are some necessities, steps to bring an end to the current crisis in Israel and Lebanon and to set us back on a course toward stability in the Middle East.

I condemn the killing and the kidnapping of Israeli soldiers by Hamas and Hezbollah. I believe that was a deliberate act of provocation. It was intended to further rupture efforts at creating stability in the region, and it was carried out by groups who seek no less than the destruction of the nation of Israel. And I, I am sure along with my colleagues, support Israel's right to defend itself. However, I also believe the Israeli response has been excessive and the current crisis of escalating violence on both sides must be brought to an end so we can resume efforts at creating a lasting peace.

My first point is I believe United States interests and Israeli interests will be furthered if we support the efforts of the Secretary General of the United Nations to bring about a cease-fire at the earliest possible date. Secretary General Kofi Annan has called for an immediate end to fighting between Israel and Hezbollah. He has pointed out the obvious, which is that as long as fighting continues, the num-

ber of civilian deaths both in Israel and Lebanon will increase. I also believe this may be the best way to ensure the safe return of kidnapped soldiers. Of course, the further destruction of civilian infrastructure in Lebanon is putting the future economic and political viability of that nation at serious risk. I think it is obvious to all that what is occurring in Israel and Lebanon is a disaster for many innocent civilians.

Our own administration has chosen not to support Secretary General Annan's call for an end to hostilities. As I understand Ambassador Bolton's position, it is that allowing a continuation of hostilities will provide Israel the opportunity to eliminate Hezbollah's ability to attack Israel and that this degrading of Hezbollah's military capability will provide a better possibility for long-term peace. I support the goal of long-term peace, but I disagree with his view that continued combat is the best way to achieve it.

Whatever additional military advantage might be achieved by delaying a cease-fire comes at a very high cost. First, there is the cost in the loss of additional civilian lives.

Second, there is the additional support for Hezbollah in the Arab world which the continued attacks on Lebanon will almost certainly generate.

Third, there is the increase in anti-Israeli and anti-American sentiment throughout the Middle East and more broadly which will result if the military conflict continues.

While I understand the goal of these continued attacks is to bring an end to terror in the Middle East, and I strongly support that goal, I believe the result will be the opposite.

The administration's unwillingness to join other nations in calling for a cessation of hostilities reinforces the belief in Arab countries that our Middle East policy is based on a double standard. The perception is we have one level of concern when innocent Israeli civilians are being killed and injured and much less concern when the injured or killed civilians live in Arab countries. Support by the U.S. for an immediate cease-fire would save lives on both sides and would help to counter that perception.

There was an article in the Washington Post last week by Michael Abramowitz entitled "In Mideast Strife, Bush Sees a Step to Peace." In the article, he states:

In the administration's view, the new conflict is not just a crisis to be managed. It is also an opportunity to seriously degrade a big threat in the region, just as Bush believes he is doing in Iraq.

If this administration thinks it can succeed here in Lebanon with the same strategy that has brought us success in Iraq, then our foreign policy in Washington is even more out of touch with reality than I had thought.

My second point is as part of our effort to bring about this cease-fire, we need to talk directly with Syrians and others with whom we have disagreed.

Robert Malley, who was President Clinton's special assistant for Arab-Israeli affairs, has written an article in the July 24 issue of Time magazine making that case persuasively. His article is entitled "Time to Start Talking." The thrust of his argument is this administration's policy of not talking to those with whom we disagree has not served us well. The same argument is made by John McLaughlin, the former Deputy Director of the CIA, in yesterday's Washington Post.

In my view, both of these former officials are giving good advice and I urge the President and the Secretary of State to heed that advice.

My final point is this current crisis should be a wake-up call to this administration that the United States needs to reengage diplomatically in the region.

For the past several decades, United States administrations have seen our role in the Middle East as supporting the security of Israel but also as helping to resolve conflicts between Israel and its neighbors and supporting moderate governments in the region. There are many chapters in that history. Among the most remembered are Secretary of State Kissinger's efforts at shuttle diplomacy, President Carter's efforts at Camp David, President Clinton's efforts both in bringing Rabin and Arafat to the White House for a handshake, and his later efforts trying to broker a peace agreement at Camp David.

This current administration has chosen a different course. It has chosen to disengage from that conflict resolution role. As evidence of this, Secretary Powell did not appoint a special Middle East envoy as his predecessor had. Secretary Rice also has not appointed a special envoy. Her statement was:

Not every effort has to be an American effort. It is extremely important that the parties themselves are taking responsibility.

My strong view is this policy of disengagement has not served the interests of the United States, the interests of Israel, or the interests of other countries in the region. We are by far the biggest provider of aid to the countries in the Middle East and if any outside nation is to play an effective and a constructive role, it needs to be the United States.

I am glad the Secretary of State is in Beirut today, but progress on the diplomatic front cannot be postponed awaiting fly-ins by the Secretary of State. Secretary Rice should appoint a special envoy to work full time at resolving disputes and tensions in the region.

Again, John McLaughlin states the point well:

The chances of detecting and heading off imminent disaster are enhanced when there is intense, unrelenting and daily attention by a senior and respected U.S. figure who wakes up every morning worrying about nothing else—the role Dennis Ross played so effectively in the 1990s.

Continuing with his quotation.

Without constant tending to the concerns of all the regional parties, rapid flagging of

issues for decision in Washington and continuity of focus by one individual with access we will lurch from crisis to crisis.

It is ironic that the President and Secretary of State acknowledge the need for an Under Secretary of State for Public Diplomacy. This was the job Karen Hughes was given, to burnish the U.S. image abroad, particularly in the Muslim world. Yet at the same time they refuse to appoint a special envoy to the Middle East which, in my view, would do far more with regard to perceptions in that part of the world.

I urge the administration to reassert the historic role of the United States as a force for resolution of conflict in the Middle East. I believe that must begin by engaging in direct talks with the parties in the region. And I urge the President and our Secretary of State to help bring about an immediate cessation of hostilities.

I ask unanimous consent that the two articles I have referred to, one by Robert Malley and the other by John McLaughlin, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From Time, July 24, 2006]

TIME TO START TALKING

(By Robert Malley)

The most alarming aspect of the unfolding crisis in the Middle East isn't how many actors are jumping in. It's who is opting to stay out. Hamas, Hizballah and Israel are directly involved; Iran and Syria by proxy; Lebanon against its will. The U.N. is dispatching its mediators; the European Union is contemplating doing the same. But the U.S., despite colossal strategic stakes, threats to its own security, potential repercussions in Iraq, not to mention staggering loss of life, remains on the sidelines. The world's sole superpower is also its only no-show.

This is by design. From early on, the diplomacy of the Bush Administration has been guided by a straightforward logic: engagement is a reward, misbehavior ought not be rewarded; ergo, misbehaving parties are not to be engaged. The thinking is that isolation, ostracism and, if need be, sanctions are more likely to get troublesome actors to change their ways. And so the list of diplomatic outcasts only grows. Today the U.S. does not talk to Iran, Syria, Hamas, the elected Palestinian government or Hizballah. And as the violence in the region clearly shows, that has hardly been cause for moderation. President Bush once famously observed that the U.S. had sanctioned itself out of all leverage on Iran. In truth, it has worked itself out of much influence on the region.

And that's only half the problem. Since 2000, with the collapse of any Arab-Israeli peace process, the start of the war on terrorism and the U.S. invasion of Iraq, regional actors have lacked a clear compass, rules of the road or a referee. Syria is being told to clean up its act in Lebanon and Iraq; Iran to drop its nuclear program and to stop meddling in its neighbor's affairs; Hamas to undergo an ideological revolution; Hizballah to disarm. All are perfectly justifiable demands, but none are being accompanied by a clear and appealing incentive for the parties' taking such actions—other, that is, than avoiding retribution if they do not.

As a result of this diplomatic vacuum, the only factor constraining the behavior of the

various parties has been their mutual fear. Israel has been worried that Hizballah might launch Katyusha rockets on Haifa, Syria that Israel might wipe out its army or regime, Hamas and Hizballah that their entire leadership could become fair game. But such apprehension always was at most a feeble restraint, because in an unregulated environment, the only thing more costly than disregarding one's fears is displaying them. In the past weeks, that last and flimsy inhibition finally gave way. The conflict no longer is about achieving a specific objective—it's about imposing new rules of conduct, re-establishing one's deterrence, redesigning the region's strategic map. Stopping such fighting is a tall order, precisely because the protagonists' main goal is to demonstrate they are not afraid to prolong it.

It certainly won't be halted without robust, credible and influential third-party involvement. None of the actors will want to appear overly eager for a cease-fire, but more than a few might—at the appropriate time—leap at an outsider's proposed deal. That happened before, in the 1980s and 1990s, when Lebanon was the arena for similar proxy wars and when the U.S., then the energetic mediator, was the instrument of diplomatic negotiations. Without U.S. support, it's doubtful that the U.N.'s mediators will be able to muster similar muscle.

So is there any way out of the crisis? If the U.S. hopes to find one, it will have to help put a comprehensive package on the table, and some of its broad outlines can be divined. On the Israeli-Palestinian side, it would include a reciprocal and verifiable cease-fire, a prisoner swap and Israel's allowing the Hamas government to govern. The Lebanese equation is more complex. Here too a prisoner exchange and cease-fire agreement will be necessary, but a broader deal, involving steps toward Hizballah's disarmament and Israel's withdrawal from the contested Shabaa farms, will probably be required. On the latter issues at least, it is hard to imagine much happening without addressing Syrian concerns; for more sustainable stability, Iran will have to be included as well.

But then, such an approach would entail negotiating with all the wrong people about all the wrong things. That, of course, is precisely what the U.S. is adamant it will not do. One does not talk to outlaw actors, let alone bargain with them. The result has been a policy with all the appeal of a moral principle and all the effectiveness of a tired harangue.

[From Washingtonpost.com, July 23, 2006]

WE HAVE TO TALK TO BAD GUYS

(By John McLaughlin)

Although the fighting in the Middle East is still raging, it is not too soon to start drawing lessons from these tragic events. Even if this situation begins to cool, there are so many other flashpoints in the Middle East and so many other potential hot spots in the world that any respite from crisis is bound to be short.

Lesson No. 1 is that change occurs incrementally and almost imperceptibly in the Middle East, but when it reaches critical mass, the potential for surprise and disaster is enormous. The current situation did not emerge overnight. The death of Yasser Arafat presented a huge opportunity for the international community to bolster Mahmoud Abbas and reform the Palestinian Authority. But that effort largely stalled despite strenuous efforts by the special envoy representing the Quartet—the United States, the European Union, the United Nations and Russia. This helped set the stage for the Hamas victory in the Palestinian elections.

Hamas's control of the West Bank and Gaza and its estrangement from the international community gave Hezbollah, in Lebanon, unprecedented opportunities and reach into those areas. The continuing weakness of the Lebanese government allowed Hezbollah a free hand in its home base.

Lesson No. 2 is that the chances of detecting and heading off imminent disaster are enhanced when there is intense, unrelenting and daily attention by a senior and respected U.S. figure who wakes up every morning worrying about nothing else—the role that Ambassador Dennis Ross played so effectively in the 1990s. It is true that plenty of able people in the U.S. government still focus on the Middle East. But without constant tending to the concerns of all the regional parties, rapid flagging of issues for decision in Washington and continuity of focus by one individual with access, we will lurch from crisis to crisis.

Lesson No. 3, related to all of this, is that process matters, especially in the Middle East, where the issues are so contentious and the parties so divided. Without ongoing, regular and near-continuous negotiation, there are few reference points that all the parties can accept when conflict breaks out. It may not even matter whether perceptible progress is occurring continuously. The important thing is that the table is always set, everyone has a chair and someone is in charge. That has not been the case for some time in the Middle East.

Lesson No. 4 is that even superpowers have to talk to bad guys. The absence of a diplomatic relationship with Iran and the deterioration of the one with Syria—two countries that bear enormous responsibility for the current crisis—leave the United States with fewer options and levers than might otherwise have been the case. Distasteful as it might have been to have or to maintain open and normal relations with such states, the absence of such relations ensures that we will have more blind spots than we can afford and that we will have to deal through surrogates on issues of vital importance to the United States. We will have to get over the notion that talking to bad guys somehow rewards them or is a sign of weakness. As a superpower, we ought to be able to communicate in a way that signals our strength and self-confidence.

Lesson No. 5 is that there are no unilateral solutions to today's international problems, not even for superpowers. They have been rendered impossible by a host of factors unique to this era—globalization, the Internet, the technological revolution and the increasing role of non-state actors with influence that spills across existing borders. The disproportionate influence of Hezbollah at the moment illustrates the point. This doesn't mean turning everything over to international forums. But it is tempting to think that successful passage through the current thicket might have been eased by steps such as a series of regional conferences, linked to our allies and to the United Nations, at which all parties could have been forced—grudgingly and slowly—to put their cards on the table regarding issues such as Iraq, regionally based terrorism and the Israeli-Palestinian conflict. Would this have gotten us anywhere?

In a region as complex as the Middle East, nothing guarantees progress. But what is clear is that these problems are intertwined, that all the states in the region have vital interests at stake, and that approaching these issues serially will only prolong the familiar cycle of one step forward and two steps back.

Mr. BINGAMAN. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WARNER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALBARD). Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF JEROME A. HOLMES TO BE UNITED STATES CIRCUIT JUDGE FOR THE TENTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the hour of 3 p.m. having arrived, the Senate will proceed to executive session to consider Calendar No. 764, which the clerk will report.

The assistant legislative clerk read the nomination of Jerome A. Holmes, of Oklahoma, to be United States Circuit Judge for the Tenth Circuit.

The PRESIDING OFFICER. Under the previous order, there will be 2 hours for debate equally divided between the Senator from Pennsylvania, Mr. SPECTER, and the Senator from Vermont, Mr. LEAHY, or their designees.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, the Judiciary Committee, which I chair, is pleased to report the nomination of Mr. Jerome A. Holmes to be a judge on the U.S. Court of Appeals for the Tenth Circuit. Mr. Holmes comes to this position with an excellent academic and professional background. He was nominated to be a judge on the court on May 4 of this year, received a hearing on June 15 of this year, and was reported out of the Judiciary Committee on July 13 on a voice vote.

The unique situation with Mr. Holmes is that he would be the first African American to serve on the Court of Appeals for the Tenth Circuit. I am about to yield to the distinguished Senator from Oklahoma, Mr. COBURN, who obviously has great familiarity with that circuit, being from the State of Oklahoma. Before moving to Pennsylvania to go to the University of Pennsylvania some years ago, I began my own academic career at the University of Oklahoma, having been a lifelong resident up to that point of the State of Kansas. The Tenth Circuit is near and dear to my heart. I can testify firsthand about the desirability and, in fact, the need for diversity on the Court of Appeals for the Tenth Circuit. There ought to be diversity to the extent practical and possible on all of our courts. It gives the constituency, the litigants, and the people who practice before the court, the sense that there are judges from every walk of life. The broader the background a court possesses, the more understanding it has

of the problems we all face in a very diverse society, which is the melting pot of the world, the better.

That does not mean in any way, shape, or form that qualifications ought to be subordinated, that we should pursue diversity for diversity's sake, regardless of other considerations. But when someone has the qualifications that Mr. Holmes presents to the Senate and in addition would bring diversity to the court to which he has been nominated, that is something to be considered. Certainly the desirability of having diversity on the Supreme Court of the United States is evident and highly visible. Thurgood Marshall was the first Justice on the Supreme Court to be African American. Now we have Justice Clarence Thomas, again, the only African-American judge. It took a long time for women to find a place on the Supreme Court, with the nomination and confirmation of Justice Sandra Day O'Connor in 1981. That was the first year of my service in the Senate, after being elected in 1980. It was a great day when Justice Sandra Day O'Connor took her place on the Supreme Court of the United States. We now have, in addition, Justice Ruth Bader Ginsburg. It is important to have that diversity.

While there is not a Hispanic on the Supreme Court, we have Alberto Gonzales who is the Attorney General of the United States. There is no doubt these individuals are role models. They demonstrate that an Hispanic can come to the highest levels of the Government, as can an African American, as can a woman. It took a long time for women's suffrage, for women to have the right to vote, and to move into the upper echelons of all facets of American life. There is, realistically viewed, still a glass ceiling which imposes some limitation.

Now on to Mr. Holmes and his very excellent qualifications. He graduated from Wake Forest University cum laude in 1983 and the Georgetown University Law Center in 1988. At Georgetown, he served as editor in chief of the Georgetown Immigration Law Journal. In the year 2000, he earned a master's in public administration from Harvard's Kennedy School of Government. Between college and law school, he worked as a social services assistant in the D.C. Department of Corrections. Following law school he clerked for Judge Wayne Alley of the U.S. District Court for the Western District of Oklahoma and then Tenth Circuit Judge William J. Holloway. Following the clerkship, he spent 3 years in private practice as an associate with the well-regarded law firm of Steptoe & Johnson.

In 1994, Mr. Holmes began a distinguished career as a Federal prosecutor serving as an assistant U.S. attorney in the Western District of Oklahoma. Among other duties, he prosecuted public corruption, Federal criminal civil rights violations, and was the of-

fice's antiterrorism coordinator. He also worked on the prosecuting team that built a case against the perpetrators of the Oklahoma City bombing. Since 2005, he has been a director of the private Oklahoma law firm Crowe & Dunlevy, where he has focused on white collar criminal defense and complex litigation. He also chairs the firm's diversity committee.

Mr. Holmes has given back to the people of Oklahoma by taking leadership roles in a wide variety of civic organizations, including service as a director of the Oklahoma Medical Research Foundation, trustee of the Oklahoma City National Memorial Foundation, director of the Oklahoma Academy for State Goals, chairman of the City Rescue Mission, and vice president of the Oklahoma Bar Association. The American Bar Association has unanimously found Mr. Holmes to be qualified to serve on the Tenth Circuit.

Before yielding the floor and turning over the management of the nomination to my distinguished colleague on the Judiciary Committee, I wish to make a few comments about a release of the American Bar Association today on so-called signing statements. I have discussed with Senator COBURN that I will take a few more minutes at this time. May the record show he is nodding in the affirmative. I shall not take too long.

(The remarks of Mr. SPECTER are located in today's RECORD under "Morning Business".)

Mr. SPECTER. Mr. President, at this point, I yield to my distinguished colleague, Senator COBURN, who did an excellent job as Mr. Holmes's principal advocate before the Judiciary Committee, as my designee to handle the proceedings in the Senate this afternoon and tomorrow on the confirmation of Mr. Holmes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, it is a privilege to be on the committee with the Senator from Pennsylvania, and it is a privilege to represent Jerome Holmes during his debate and consideration for the Tenth Circuit Court position.

A lot of discussions have occurred in this body in the last couple of years on judges. One of the things which was prominent in my election to the Senate was the issue of judges. It really comes back down to what the American people would like to see in those people who sit on the highest courts of our land and what are the qualities and characteristics we would like them to have and do they go through a process where those are fairly vetted and taken out of the political arena to see what those qualities are.

Thinking about Jerome Holmes, Senator SPECTER very well outlined his history. So there is no question that he has impeccable credentials and that he is considered well qualified by the American Bar Association. But what he does have is two things. One is a